

Board of Zoning Appeals



Minutes of the Thursday, August 1, 2019 Regular Meeting

Members of the Board of Zoning Appeals

Wesley Summers

Chairman

Jim Newman

Kevin Scaggs

Kathie Stallworth

Lynn Stenbridge

1. **Call to Order** – Chairman Wesley Summers called the meeting to order at 7:00 p.m.
2. **Roll Call** – Board members present: Chairman Summers, Kathie Stallworth, and Jim Newman. Board members Kevin Scaggs and Lynn Stenbridge were absent. Also in attendance: Kuleigh Baker, Planner, Planning & Development, Lisa Cook, Secretary of Planning and Development, and members of the public.
3. **Approval of Minutes** – The minutes of the July 11, 2019, regular meeting were approved as written with one amendment. Mrs. Stenbridge noted that the press was not present at meeting. Mr. Newman moved that the minutes be approved as amended. Mrs. Stenbridge seconded the motion and the motion was approved unanimously.
4. **Confirmation of Agenda** – There were no changes to the agenda.
5. **ZV19-006** -- A request by John and Nancy Whitley for a variance to allow for accessory structures on a vacant lot as prohibited by Section 4.2.3, Establishment of Accessory Structures and Uses of the North Augusta Development Code. The application affects ±2.41 acres zoned R-14, Large Lot Single-Family Residential located at 1063 Old Plantation Road, Tax Parcel Numbers 002-07-01-007 and 002-07-01-006.
 - a. **Public Hearing** – The purpose of the hearing is to receive public comment on the application.
 - b. **Consideration** – Application ZV19-006

Chairman Summers briefly reviewed the public meeting participation guidelines and read the application summary. The public hearing was opened at 7:05 p.m.

Chairman Summers asked if Mrs. Baker had information she would like to share.

Mrs. Baker stated staff received the application as a minor plat and the owners own both 1053 and 1063 Old Plantation Road. She explained that currently at 1053 Old Plantation Road there is an existing residence, a walled garden and garage, and the applicants are wanting to re-subdivide the lot where 1063 Old Plantation Road will be a vacant lot that can be sold with the two accessory structures on the site.

Chairman Summers asked if staff had discussed this with applicant. Mrs. Baker stated there have been a few discussions with the applicant and their surveyor about some different ways they could go about this application. She explained one option would be to sell the vacant lot and have someone build the structure and then come back and re-subdivide the lots with the accessory structures once there is a primary use established and it is also possible that they could move the structures. Mr. Summers asked if they would have to move the garden. Mrs. Baker replied that they would have to move or remove the structures.

Mrs. Stallworth questioned if one of the structures is the garden. Mrs. Baker answered yes stating it is a walled garden.

The applicant, Mrs. Nancy Whitley, was sworn in by Chairman Summers. She stated that some of the options that were discussed was removing the garden. Mrs. Whitley explained that the garden is a unique feature that has a fire pit in the middle, some antique bricks, and a lot of thought and care has went into it. She said they would like to sell the lot separately and the interested buyer would like the structures as they are and they plan on building a house. Mrs. Whitley explained when they purchased the land that is for sale the existing storage building was already on the property and the current owner would also like to keep that so they may maintain the property during the time they are going to be building their house. She said it would be sad to see the garden taken down because it would bring a lot of value to the next owner.

Chairman Summers asked if the property away from the main house was being sold. Mrs. Whitley answered that when they bought the property it was 2.5-acres and they bought the adjoining property for an additional 2.5-acres which they subdivided into 3.5 and 1.5-acres and built the garden there. She explained they want to go back to the original 2.5 and 2.5-acres because it is a large lot and some people do not want the 5-acres.

Chairman Summers stated there are ten items the Board must consider in an individual case of unnecessary hardship, and find yes for, in every case in order to the grant the variance. He explained if any one of these items the Board finds no on the variance will not be granted and the applicant cannot come back for one year. Mr. Summers stated by putting the lots together and now wanting them separated tells the Board that the hardship was created and the only way a Boards decision can be reversed is by going to court and he wants to avoid this for the applicant.

Mr. Kyle Flanagan was sworn in by Chairman Summers. He stated that he and his wife would love to purchase the 2.5-acre property and his understanding was the sale could go through if the garden wall and storage shed were knocked down. Mrs. Baker replied that is correct if there are no accessory structures on that lot we would be able to move forward with the subdivision. Mr. Flanagan stated he is buying the lot for the lot and if the garden was not there he would still purchase it, but feels it is a waste to tear down the storage shed and the garden when it was there when Mrs. Whitley purchased the property.

Chairman Summers stated the hardship was caused by combining the properties. He said the Board can grant a continuance for up to a year. Mrs. Baker explained Mr. Flanagan would be restricted to building his house on the current subdivision of the land and it would not include the structures. She said the structures would have to be sold with the existing house.

Mr. Flanagan stated the only issue he has is the placement of the house because he has had the Department of Public Health perform a percolation test on the property for septic. He referred to the submitted boundary survey and explained the house could not be built on the current 1.5-acres for it will cross halfway in the middle of the joined properties.

Mrs. Stallworth asked for clarification that the property Mrs. Whitley bought was pre-code stating it is a pre-existing structure and it is grandfathered in. Mrs. Baker stated there are some time limits on the grandfathering. She explained this would be creating a new non-conforming lot and it is not a non-conforming lot of record as it sits now.

Chairman Summers asked for a repeat of what the applicant's options are. Mrs. Baker explained the options would be to remove the accessory structures and buy the subdivided lot the way you would like to purchase it or you would have to build the house on the parcel that is currently divided and later re-subdivide to add the accessory structures to the lot that will then have a primary use.

Cliff Russell, with Carbon Construction, was sworn in by Chairman Summers. He stated he works with DHEC a lot and builds houses with wastewater systems and by large part they ask where you are going to put a house and they design the septic system and drain field accordingly.

All comments and questions from the Board were addressed by Staff and the applicant.

Chairman Summers closed the public hearing at 7:42 p.m.

After reviewing the findings, Chairman Summers asked for a motion from the Board.

After a motion made by Mr. Jim Newman, and duly seconded by Mrs. Kathie Stallworth, and joined by Chairman Summers voted unanimously for a continuance of one year for Application ZV19-006, a request for a variance to allow for accessory structures on a vacant lot as prohibited by Section 4.2.3, Establishment of Accessory Structures and Uses of the North Augusta Development Code, in order to allow for more facts to be gathered and the two parties to work on the details with the Planning Department.

6. **ZV19-007** -- A request by Mary Ann Jones Turner, Doris Jones Rodriguez, and the Joseph Edward Jones Life Estate for a variance of Section 3.8.5.4.5, Access Spacing on Public Streets of the North Augusta Development Code. The application affects ±1.1 acres zoned GC, General Commercial located along Knox Avenue, Tax Parcel Numbers 006-20-09-010, 006-20-09-011, and 006-20-09-014.
 - a. **Public Hearing** – The purpose of the hearing is to receive public comment on the application.
 - b. **Consideration** – Application ZV19-007

Chairman Summers read the application summary and opened the public hearing at 7:45 p.m. and asked if Mrs. Baker had information she would like to share.

Mrs. Baker stated the applicant is proposing a senior housing development that is apartment style and they are requesting an access drive that is closer than 150-feet to Walker Avenue along Knox Avenue.

The applicant, David Banks, of Southern Partners Engineering Company, was sworn in by Chairman Summers. He stated he is working for a developer of low country residential communities and they are in the process of doing their diligence for this property and while looking at the ordinance they found there was a possible conflict and want to insure everything meets code. Mr. Banks said the layout they are presenting in order to do this location would be within 145-feet and request a variance from the 150-foot requirement. He explained the plan was to initially line the driveways up with the Doctors Care across the street and he spoke with a DOT representative who preferred a protected turn lane.

Mrs. Stallworth questioned if the left turn lane would be extended onto Walker Avenue. Mr. Banks explained there are currently two left turn lanes on both sides going to Walker Avenue into Summerhill and they merge over from one to the other and they would extend the left turn lane to Walker Avenue to incorporate two cars as a safe haven to the driveway.

Chairman Summers asked if DOT has given preliminary approval. Mr. Banks answered they have said this is where they like the driveway and a traffic study would not be required and he would have to submit a plan which would come with the same plans submitted to the City that would include what is presented to the Board.

Mr. Henry Jones was sworn in by Chairman Summers. He stated the proposed property development is adjacent to his property and questioned the effect the property change will have to his property.

Mrs. Stallworth remarked there would have to be a buffer of a certain width and appropriate lighting. Mrs. Baker replied that is correct and at the time of site plan approval staff would look at the buffering, there would be additional buffering for the actual parking spaces, and a lighting plan would need to be submitted. She said the applicant has spoken to the minimal traffic impact.

Mr. Jones asked if the driveway to the parking lot would be close to his property. Mr. Banks answered yes stating the parking lot is closer to the houses and the building fronts on Knox Avenue. Mr. Jones questioned, if approved, how soon construction would start. Mr. Newman answered within a year.

All comments and questions from the Board were addressed by Staff and the applicant.

Chairman Summers closed the public hearing at 7:56 p.m.

Mr. Newman asked how many parking spaces are required for the facility. Mr. Banks replied that the sketch plan is going before the Planning Commission because the required parking is fifty-two spaces and they are requesting a reduction to forty.

Chairman Summers questioned if they are allowed to have fewer parking spaces can the driveway be moved 5-feet. Mr. Banks answered no, explaining that the proximity to the entrance would allow the potential of someone being hit.

Chairman Summers stated the Board needs to ensure that the houses behind the development are buffered.

After some discussion and reviewing the findings, the Board found in the affirmative that the appeal meets all of the standards required to issue the variance. Chairman Summers asked for a motion from the Board.

After a motion made by Mr. Jim Newman, and duly seconded by Mrs. Kathie Stallworth, joined by Chairman Wes Summers voted unanimously to approve the application with the following condition:

1. The addition of Buffer, Type-A is followed along with a maintained hedge row along the back of the buffer.

7. **ZV19-008** -- A request by Summer Lakes Development, LLC for a variance to allow a greater maximum front setback than permitted as required by Article 3, Zoning Districts, Table 3-3 Dimensional Standards of the North Augusta Development Code. The application affects ±1.98 acres zoned R-7, Small Lot Single-Family Residential located at 1799 Womrath Road, Tax Parcel Number 012-13-04-014.
- a. **Public Hearing** – The purpose of the hearing is to receive public comment on the application.
 - b. **Consideration** – Application ZV19-008

Chairman Summers read the application summary and opened the public hearing at 8:21 p.m. and asked if Mrs. Baker had information she would like to share.

Mrs. Baker stated the property on Womrath Road is residential and there are not very many existing houses and they have sizeable acreage. She said the applicant came in earlier this year to subdivide the lot into two parcels, and is now seeking to request a larger setback which would be in line with the surrounding properties, and if the Board grants the variance he plans to combine the properties to build a larger single-family house further off the road to match the existing setbacks of the neighboring property.

The applicant, Cliff Russell, was sworn in by Chairman Summers. He explained that he is a single-family residential home builder and he purchased the property a year ago with a plan to build patio homes and learned that there is an ordinance in this particular area that limits the setbacks which was, as explained to him, to help urbanize and bring buildings closer to the road and have parking behind the buildings. Mr. Russell stated he understands this applies here but the rest of the surroundings were built before the ordinance was in place. He explained a 2,500-square foot house by the road would be out of character and would destroy the very countryish neighborhood.

Mr. Newman questioned how far back the build was going to be on the property. Mr. Russell answered he is requesting 65-feet.

All comments and questions from the Board were addressed by Staff and the applicant.

Chairman Summers closed the public hearing at 8:28 p.m.

After some discussion and reviewing the findings, the Board found in the affirmative that the appeal meets all of the standards required to issue the variance. Chairman Summers asked for a motion from the Board.

Mr. Jim Newman motioned to approve application number ZV19-008, a request by Summer Lakes Development, LLC for a variance to allow a greater maximum front setback than permitted as required by Article 3, Zoning Districts, Table 3-3 Dimensional Standards of the North Augusta Development Code with no conditions. Mrs. Kathie Stallworth seconded the motion. The vote was approved unanimously.

6. **Adjourn** – With no objection, Chairman Summers adjourned the meeting at 8:35 p.m.

Respectfully Submitted,



Libby Hodges, AICP, Director of Planning and Development
Secretary to the Board of Zoning Appeals

